



**Environmental Quality Board**

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April 16, 2004

The Honorable Beverly Jones Heydinger  
Administrative Law Judge  
Office of Administrative Hearings  
100 Washington Square, Suite 1700  
Minneapolis, Minnesota 55401-2138

Re: Faribault Energy Park Application for Site Permit  
EQB Docket No. 02-48-PPS-FEP  
OAH Docket No. 15-2901-15778-2

Dear Judge Heydinger:

On April 12, 2004, you conducted a contested case hearing on the request by Faribault Energy Park, LLC for a Site Permit for a new power plant to be located in Faribault, Minnesota. The applicant has submitted proposed Findings of Fact, Conclusions, and Recommendation to you for review. The EQB staff would like to enter some brief comments on the applicant's proposed findings for your consideration.

Generally, the EQB staff has no disagreement with the proposed findings. The proposed findings follow closely the report issued by Judge Allan Klein for the Pleasant Valley facility. We do not disagree with any of the proposed findings but in a few respects, we think that some editing is appropriate, and we would like to bring those to your attention.

*1. Transmission Line.* Proposed Findings Nos. 54 and 72 relate to the short transmission line that will be required as part of the overall project. The transmission line is being considered by the EQB in a separate permit proceeding. We think it is preferable to address issues relating to the transmission line in the other proceeding on the basis of the record in that matter and to delete those findings in this matter.

*2. MISO Studies.* There is a reference in Finding No. 20 to certain studies performed by the Midwest Independent System Operator (MISO). These studies are not identified in the prefiled testimony of Randall Porter. It would be preferable to simply find that the applicant testified that MISO has found that the project will enhance reliability rather than make a finding referring to studies that are not identified.

*3. Air Emissions.* It would be helpful to include a finding stating that the Pollution Control Agency, which is the agency that will regulate air emissions from the facility, has entered a letter into the record stating that the facility is permissible at the proposed site. Exhibit 44.

4. *Permit Conditions.* The EQB has the authority to include conditions in the site permits it issues, and there will be some conditions included in the permit issued to Faribault Energy Park. You are not expected to recommend permit conditions but if there are conditions that the you believe are reasonable conditions to include in the permit, the staff would appreciate receiving your recommendations in that regard.

Also, in the Statement of Issue on page 2, a statement should be included recognizing that the EQB will not only determine what site to issue a permit for, but also what conditions to include in the permit. We would prefer the following language:

#### STATEMENT OF ISSUE

Should the MEQB issue a Site Permit to Faribault Energy Park, LLC, for a large electric power generating plant, and if so, for which of the sites under consideration and under what conditions?

5. *Recommendation.* The language suggested by the applicant for the Recommendation at the end of the report is taken from the Pleasant Valley report, which was issued by Judge Klein in March 2000. At that time under the Power Plant Siting Act, what the EQB issued was a Certificate of Site Compatibility. Today, since the Act was amended in 2001, what the EQB issues is a Site Permit. The Recommendation should be changed accordingly. We suggest the following:

#### RECOMMENDATION

That the MEQB issue a Site Permit for construction of the proposed 250 megawatt dual fuel combined cycle combustion turbine generating plant proposed by Faribault Energy Park, LLC, on the site [here describe the site recommended] and subject to such conditions as the MEQB finds reasonable and appropriate.

6. *Phased Construction.* The applicant has stated that although a combined cycle plant has been proposed, it intends to construct a simple cycle plant initially, complete that construction in 2005, and then install the steam generator at a later date. It would be helpful if the findings described the applicant's intentions.

7. *Minor Editing.* The staff has a few minor editing suggestions. The applicant refers to some of the Exhibits as Applicant's Exhibit or EQB Exhibit. We would prefer that you simply refer to the document as Exhibit No. such and such, without labeling it as a certain entity's exhibit.

It is helpful if all the acronyms used in the findings are spelled out the first time they are used. For example, gpd [gallons per day] and mgd [million gallons per day] in Finding No. 32 should be spelled out.

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Thank you for your service as the Administrative Law Judge in this matter. We look forward to receiving your Report.

Sincerely,

A handwritten signature in cursive script that reads "Alan Mitchell". The signature is written in black ink and is positioned above the printed name.

Alan Mitchell

cc: Jim Larson, Faribault Energy Park, LLC